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COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

<http://www.house.gov/judiciary>

February 3, 2010

The Honorable Eric H. Holder
Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Dear Attorney General Holder,

I write to request information about the actual frequency with which the Department has successfully tried terror suspects in civilian courts.

The Department of Justice recently released a fact sheet titled, "The Criminal Justice System as a Counterterrorism Tool." The document purports to defend the effectiveness of utilizing the criminal justice system as a means of "both incapacitating terrorists and gathering valuable intelligence from and about terrorists." It goes on to assert that "there are more than 300 international or domestic terrorists incarcerated in U.S. federal prison facilities."¹

Some commentators have raised concerns that this assertion does not accurately represent the use of civilian courts to successfully try terrorism suspects. Specifically, these concerns center on the Department's definition of "terror suspects" for the purposes of the above document. I request that the Department clarify its fact sheet by responding to the following questions:

1. Using the legal definition of "international terrorism," which 18 U.S.C. § 2331 defines as "violent acts or acts dangerous to human life" that "appear to be intended to intimidate or coerce a civilian population; [to] influence the policy of a government by intimidation or coercion; or [to] affect the conduct of a government by mass destruction, assassination, or kidnapping," please explain whether the Department is asserting that any of the 300 cases cited above fit this legal definition. Out of those 300 cases please also include the number of cases included in that figure for which the Department asserts fall within this definition.

¹ U.S. Department of Justice, "The Criminal Justice System as a Counterterrorism Tool: A Fact Sheet," available at <http://blogs.usdoj.gov/blog/archives/541> (last visited Feb. 2, 2010).

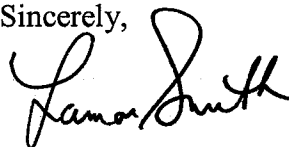
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2. In the fact sheet the Department also asserts that "[h]undreds of terrorism suspects have been successfully prosecuted in federal court since 9/11." Please provide a list of the terror suspects the Department has prosecuted to which the above statement refers. Please include for each (a) the offenses that were charged; (b) the crimes for which the individual was convicted; and (c) whether the crimes for which the individual was convicted involved violent acts of international terrorism as defined by the legal definition set out above.
3. Please provide a list of the approximately 300 "international or domestic terrorists" the Department states are currently incarcerated in U.S. federal prisons. In each case please provide (a) the offenses charged; (b) the crimes of which the person was convicted; (c) whether the case involved violent acts that fit the legal definition of international terrorism articulated above; and (d) whether the crimes occurred before or after the attacks of September 11, 2001.

The implications of trying terror suspects in civilian courts on American soil, rather than in military commissions in Guantanamo Bay, is one of the most important national security issues facing the Nation today. I request that you provide responses to these questions no later than Friday, February 26, 2010, so that Congress may have the benefit of that information as it debates this critical issue.

Thank you for your attention to this matter and I look forward to your reply.

Sincerely,



Lamar Smith
Ranking Member

cc: The Hon. John Conyers, Jr.